

City Clerk File No. Ord. 15-001

Agenda No. 3.A 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 15.001

TITLE: ORDINANCE APPROVING A 35 YEAR TAX EXEMPTION FOR A LOW INCOME AFFORDABLE HOUSING PROJECT LOCATED AT 561 MONTGOMERY STREET, TO BE CONSTRUCTED BY MONTGOMERY GARDENS FAMILY PHASE I URBAN RENEWAL ASSOCIATES, LP, A QUALIFIED HOUSING SPONSOR UNDER THE NEW JERSEY MORTGAGE HOUSING FINANCE AGENCY LAW N.J.S.A. 55:14K-1 ET SEQ.

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES ORDAIN:

WHEREAS, Montgomery Gardens Family Phase I Urban Renewal Associates, LP, is a qualified housing sponsor under the New Jersey Mortgage Housing Finance Agency Law N.J.S.A. 55:14K-1 et seq.; and

WHEREAS, Montgomery Gardens Family Phase I Urban Renewal Associates, LP, will be the Lessee under a ground lease with the owner of the property, the Jersey City Housing Authority [JCHA], of certain property known as: Block 13602, Lots 1.01 (to be known as Lots 1.04, 1.06, 1.08, and 1.09 after subdivision), on City's Tax map and more commonly known by the street address of 561 Montgomery Street, Jersey City, New Jersey [Property]; and

WHEREAS, Block 13602, Lots 1.05 and 1.07 are roads that service the project, and are currently owned by the JCHA, but are not part of this abatement and the Entity is not entitled to take a Land Tax credit for them; and

WHEREAS, the Owner of the Property is the Jersey City Housing Authority ("JCHA"), which will continue to own the land subject to the ground lease; and

WHEREAS the general partner of the Entity is Michaels, LLC, an affiliate of Michaels Development Company who was procured by the JCHA to serve as the master developer in connection with this Property and the implementation of the Montgomery Gardens/McGinley Square CHOICE Neighborhood Plan; and

WHEREAS, the Project is part of a comprehensive plan to redevelop and restore public housing in Jersey City for which the Entity is seeking funding from the Hurricane Sandy Fund for the Restoration of Multi-Family Housing ("FRM") from the New Jersey Housing and Mortgage Finance Agency; and

WHEREAS, Montgomery Gardens Family Phase I Urban Renewal Associates, LP, proposes to construct a housing development consisting of four (4) buildings to be regulated and financed pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law, N.J.S.A. 55:14K-1 et seq. on the Property; and

WHEREAS, the construction of all four (4) buildings is subject to a single HMFA funded mortgage loan; and

ORDINANCE APPROVING A 35 YEAR TAX EXEMPTION FOR A LOW INCOME AFFORDABLE HOUSING PROJECT TO BE CONSTRUCTED BY MONTGOMERY GARDENS FAMILY PHASE I URBAN RENEWAL ASSOCIATES, LP, A QUALIFIED HOUSING SPONSOR UNDER THE NEW JERSEY MORTGAGE HOUSING FINANCE AGENCY LAW N.J.S.A. 55:14K-1 ET SEQ.

WHEREAS, on or about December 10, 2014, Montgomery Gardens Family Phase I Urban Renewal Associates, LP, applied for a 35 year tax exemption under the New Jersey Mortgage Housing Finance Agency Law N.J.S.A. 55:14K-1 et seq., to construct certain improvements on the Property that will be carried out in phases, the first phase which is the subject of this application will construct four (4) buildings ranging in height from three to four (3-4) stories on the footprints of existing Buildings 3, 5 and 6 (as identified in the application), which are currently vacant, and which will be demolished [Project]; and

WHEREAS, the four (4) new buildings will include a total of one hundred twenty six (126) units of rental housing, of which one hundred sixteen (116) will be affordable units. Of the 116 affordable units, 58 units will be reserved for households whose income does not exceed 50% of the Hudson County Median Income level adjusted for family size; 48 units will be reserved for households whose income does not exceed 60% of the Hudson County Median Income legal adjusted for family size; and 10 units will be reserved for households whose income does not exceed 80% of the Hudson County Median Income legal adjusted for family size; and

WHEREAS, ten (10) additional units will be market rate residential housing, bringing the total number of units in the four (4) buildings to 126; and

WHEREAS, seven (7) of the 116 affordable units will be reserved for households who have experienced a period of homelessness as defined by the FRM program criteria; and

WHEREAS, the Project also contains 2,400 square feet of community space that will be located in Building C (as defined in the application) to front on Montgomery Street, with a storefront-like design, and which will include a warming kitchen, a computer learning center, a fitness center, and maintenance offices; and

WHEREAS, the Project also includes a large on-site surface parking lot which sits below grade at Montgomery Street and borders on Cornelison Avenue; and

WHEREAS, a copy of the application dated December 10, 2014, is on file in the office of the City Clerk; and

WHEREAS, the cost of construction of the Project is estimated to be \$28,898,179; and

WHEREAS, the Project is expected to create one hundred eighty (180) construction jobs and two (2) full-time management and service positions and two (2) part-time management and service positions after completion; and

WHEREAS, the City hereby determines that the relative benefits of the project outweigh the cost of the tax exemption for the following reasons:

1. The City will apply to receive credit for creating 116 units of low or moderate income family rental housing against the units needed within the City of Jersey City as determined by the New Jersey Council on Affordable Housing; and ten (10) additional units will be market rate residential housing, bringing the total number of units in the four (4) buildings to 126; and
2. The Project will provide for replacement housing for residents that formerly resided in the Montgomery Garden housing development, which previously generated 'zero' (0) tax revenue; and

ORDINANCE APPROVING A 35 YEAR TAX EXEMPTION FOR A LOW INCOME AFFORDABLE HOUSING PROJECT TO BE CONSTRUCTED BY MONTGOMERY GARDENS FAMILY PHASE I URBAN RENEWAL ASSOCIATES, LP, A QUALIFIED HOUSING SPONSOR UNDER THE NEW JERSEY MORTGAGE HOUSING FINANCE AGENCY LAW N.J.S.A. 55:14K-1 ET SEQ.

3. There is an especially compelling need for decent safe and affordable housing for low or moderate income families, especially for families who are currently paying over 30% of their income for housing; and

4. The construction of the improvements will stabilize the neighborhood; and

WHEREAS, the City hereby determines that the tax exemption is necessary to insure the success of the project for the following reasons:

1. The reduced tax payments allow the owner to stable its operating budget, allowing a high level of maintenance to the building over the life of the project;

2. The reduction in taxes makes the Project attractive to investors of low income housing tax credits and makes the project eligible for financing from the New Jersey Housing and Mortgage Finance Agency, needed to fund the Project; and

3. The reduced tax payments will allow the owner to maintain the low and moderate income units at the lowest rents possible within the income guidelines; and

4. The project provides 116 units of low income affordable housing which advances an inherently beneficial public purpose notwithstanding that the City's impact analysis, on file with the Office of the City Clerk, that indicates that the amount of the service charge will not support the cost of providing municipal services to the Project; and ten (10) additional units will be market rate residential housing, bringing the total number of units in the four (4) buildings to 126; and

5. The project is expected to create one hundred eighty (180) construction jobs and two (2) full-time management and service positions and two (2) part-time management and service positions after completion; and

WHEREAS, Mayor Steven M. Fulop has reviewed the application and recommends approval of the tax exemption by the Municipal Council.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that:

1. The application of Montgomery Gardens Family Phase I Urban Renewal Associates, LP, a qualified housing sponsor under the New Jersey Mortgage Housing Finance Agency Law N.J.S.A. 55:14K-1 et seq. for a tax exemption is hereby approved, subject to the following terms and conditions:

- (a) Term: 35 years, to run coterminous with the term of the Entity's HMFA mortgage;
- (b) Service Charge: 8% of Annual Gross Revenue for the 116 affordable housing units, estimated to be \$123,270 or approximately \$810 per unit; and 10% of Annual Gross Revenue for the 10 additional market rate units, estimated to be \$20,646 or approximately \$2,065 per unit, for an estimated total of \$143,916;
- (c) Administration fee: 0.5% of the annual service charge, estimated at \$720;
- (d) Project: 116 units of affordable low and moderate residential rental, and an additional ten (10) market rate residential units, for a total of 126 units; and

ORDINANCE APPROVING A 35 YEAR TAX EXEMPTION FOR A LOW INCOME AFFORDABLE HOUSING PROJECT TO BE CONSTRUCTED BY MONTGOMERY GARDENS FAMILY PHASE I URBAN RENEWAL ASSOCIATES, LP, A QUALIFIED HOUSING SPONSOR UNDER THE NEW JERSEY MORTGAGE HOUSING FINANCE AGENCY LAW N.J.S.A. 55:14K-1 ET SEQ.

- (e) Property: Block 13602, Lots 1.01 (to be known as Lots 1.04, 1.06, 1.08, and 1.09 after subdivision), on City's Tax map and more commonly known by the street address of 561 Montgomery Street (or as otherwise designated by the Tax Assessor after the subdivision is perfected), Jersey City, New Jersey [Property];

2. The Mayor or Business Administrator is authorized to execute a tax exemption Financial Agreement, which includes a Project Employment Agreement in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator and Corporation Counsel deems appropriate or necessary.

3. This Ordinance will sunset and the Tax Exemption will terminate unless construction of the Project begins within two (2) years of the adoption of the within Ordinance.

4. This Ordinance will be repealed and the Tax Exemption will terminated unless the Entity executes the Financial Agreement within ninety (90) days of the adoption of the within ordinance.

5. All ordinances and parts of ordinances, inconsistent herewith are hereby repealed.

6. This ordinance shall be part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.

7. This ordinance shall take effect at the time and in the manner provided by law.

8. The City Clerk and Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material is new; therefore underlining has been omitted.
For purposes of advertising only, new matter is indicated
by **bold face** and repealed matter by *italic*.

DJ/he
1/7/15

APPROVED: _____ APPROVED AS TO LEGAL FORM

APPROVED: _____
Business Administrator Corporation Counsel

Certification Required ☐

Not Required ☐

Montgomery Gardens Family Phase I

1. Ownership disclosure certification
2. Fiscal Impact Cost Projection
3. Good Faith estimate of rental income/condo
4. Projected construction costs
5. Schedule of ASC over the abatement
6. Tax Assessor spreadsheet
7. Projection of sales price for condos (n/a)
8. Memorandum from Tax Collector to the Law Department
9. Financial Agreement (attached to the Ordinance)

EXHIBIT F

MONTGOMERY GARDENS FAMILY PHASE I URBAN RENEWAL ASSOCIATES, LP

Disclosure Statement

NAME OF ENTITY: Montgomery Gardens Family Phase I
Urban Renewal Associates, LP
Three East Stow Road, Suite 100
Marlton, New Jersey 08053

LOCATION OF PROJECT: The Project will be built and located on the existing site of the Montgomery Gardens Public Housing Project. The site is bounded by Florence Street to the East, Montgomery Street to the North, Cornelison Avenue to the West and Bright Street to the South. Block 13602, Lot 1.01. Upon perfection of subdivision: Block 13602, Lots 1.04-1.09.
561 Montgomery Street*
Jersey City, New Jersey 07306
*the new address to be provided by the assessor upon perfection of the subdivision.

PRINCIPAL PLACE OF BUSINESS: Three East Stow Road, Suite 100
Marlton, New Jersey 08053

NAME OF REGISTERED AGENT: Arthur Brown, Esq.
ADDRESS: 3030 Atlantic Avenue
Atlantic City, New Jersey 08401

NAME	ADDRESS	PERCENT OWNED
Montgomery Gardens Family Phase I - Michaels, LLC (Michael J. Levitt-100% Owner)	c/o Michaels Development Company 3 East Stow Rd., Marlton, NJ 08053	98%
Michael J. Levitt	Same; See above	1%
Andrew J. Bochinno	Same; See above	1%

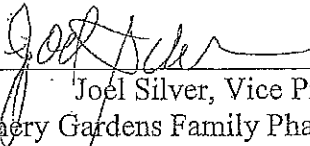
I CERTIFY THAT THE FOREGOING LIST REPRESENTS THE NAMES OF ALL MEMBERS/PARTNERS OWNING A 10% OR GREATER INTEREST IN THE ABOVE ENTITY (IF ONE OR MORE OF THE ABOVE NAMED IS ITSELF AN ENTITY, THE APPLICANT HAS PROVIDED THE NAMES OF ANY ENTITY OWNING A 10% OR GREATER INTEREST THEREIN)

I FURTHER CERTIFY THAT NO OFFICER OR EMPLOYEE OF THE CITY OF JERSEY CITY HAS ANY INTEREST, DIRECT OR INDIRECT, IN THIS ENTITY.

I CERTIFY THAT THE FOREGOING STATEMENTS MADE BY ME ARE TRUE. I AM AWARE THAT IF ANY OF THE FOREGOING STATEMENTS MADE BY ME ARE WILLFULLY FALSE, I AM SUBJECT TO PUNISHMENT.

Dated: 12/8/14

Montgomery Gardens Family Phase I
Urban Renewal Associates, LP

By: 
Joel Silver, Vice President
Montgomery Gardens Family Phase 1-Michaels, LLC.

FISCAL IMPACT COST PROJECTION - MONTGOMERY GARDENS FAMILY PHASE I (AFFORDABLE HOUSING)

Block: 13602 Lot: 1.01, 1.02 (to be known as 1.04, 1.06, 1.08, and 1.09)

Loc: 561 MONTGOMERY ST

Affordable Housing Rental Units Planned Development	Number of Units	Demographic Multipliers (Affordable Housing)*		Total		Annual Expenditures		Total Annual Expenditures		
		Household	Students	Residents	Students	Per Capita Municipal	Per Pupil Per School District	Municipal	School District	Total
1 Bedroom	22	1.421	0.14	31.26	3.08	\$1,163.68	\$3,445.00	\$36,379.01	\$10,610.60	\$46,989.61
2 Bedroom	74	2.012	0.62	148.89	45.88	\$1,163.68	\$3,445.00	\$173,258.21	\$158,056.60	\$331,314.81
3 Bedroom	28	2.798	1.27	78.34	35.56	\$1,163.68	\$3,445.00	\$91,167.46	\$122,504.20	\$213,671.66
4 Bedroom	2	3.500	2.54	7.00	5.08	\$1,163.68	\$3,445.00	\$8,145.77	\$17,500.60	\$25,646.37
TOTAL	126			265.49	89.60			\$308,950.46	\$308,672.00	\$617,622.46

1. Total Municipal Ratables	\$5,916,171,471	4. CY 2014 Budget	\$516,641,147	6. Population of Jersey City (2010 Census)	247,597	9. Increase in Services Incurred Per Development	\$ 617,622.46
2. Residential Ratables	\$3,299,371,882			7. Per Capita Municipal Cost	\$1,163.68	10. Anticipated Gross PILOT 1st Year	PILOT \$ 143,916.00
Commercial Ratables	\$1,439,637,425			8. Annual Expenditures Per Student**	\$3,445.00	0.5% Admin	\$ 719.58
3. Residential Ratables as a Percentage of Total Ratables	55.77%	5. Residential Portion	\$288,124,048			11. 1st Year Net PILOT	\$ 144,635.58
						12. Implied Cost	\$ 472,986.88

Classic Average costing approach for projecting the impact of population change and local Municipal and School District costs

*Source: New Jersey Demographic Multipliers: Profile of the Occupants of Residential and Nonresidential Development; Listokin, November 2006

**Source: 2014-2015 Jersey City Municipal Cost Per Pupil

EXHIBIT B
MONTGOMERY GARDENS FAMILY PHASE I
URBAN RENEWAL ASSOCIATES, LP

FISCAL PLAN:

ANNUAL GROSS REVENUE
&
ANNUAL SERVICE CHARGE CALCULATION

[illegible]

[illegible]

15th Phase I

Hortensy Family Plots - The Anderson Estate 175 1st St. SE
6 Pine Street NE

SERVICE CHARGE VS CONVENTIONAL - MONTGOMERY GARDENS FAMILY PHASE I
 *ASSUMING 74.34 TAX RATE WITH 2% ANNUAL INCREASE

NEW ASSESSMENTS BASED ON TAX ASSESSOR ANALYSIS

LAND	839,400	COUNTY	n/a	EXISTING ASSESSMENT	3,612,100
BLDG	2,772,700	ADMIN	0.50%		
TOTAL	3,612,100			PROJECTED SERVICE CHARGE (1ST YEAR)	143,916

YEAR	ASC w/ Phase-In Less Land Tax Credit	ASC w/ 3% Annual Increase	ASC w/ 3% Annual Increase & Phase-In	Admin (0.5%)	Conventional Taxes On New Assessment (2% Annual Increase)	Step Up Rate	% of Conv.	Conventional Taxes at 51% (Estimated)	Current Taxes On Existing Assessment (2% Annual Increase)
1	113,339	143,916	143,916	720	268,524			136,947	268,524
2	117,045	148,233	148,233	741	273,894			139,686	273,894
3	120,868	152,680	152,680	763	279,372			142,480	279,372
4	124,812	157,260	157,260	786	284,959			145,329	284,959
5	128,881	161,978	161,978	810	290,658			148,236	290,658
6	133,079	166,838	166,838	834	296,472			151,201	296,472
7	137,409	171,843	171,843	859	302,401			154,225	302,401
8	141,875	176,998	176,998	885	308,449			157,309	308,449
9	146,483	182,308	182,308	912	314,618			160,455	314,618
10	151,235	187,777	187,777	939	320,910	20%	64,182	163,664	320,910
11	156,138	193,411	193,411	967	327,329	20%	65,466	166,938	327,329
12	161,195	199,213	199,213	996	333,875	20%	66,775	170,276	333,875
13	166,411	205,189	205,189	1,026	340,553	20%	68,111	173,682	340,553
14	171,791	211,345	211,345	1,057	347,364	40%	138,946	177,156	347,364
15	177,340	217,685	217,685	1,088	354,311	40%	141,724	180,699	354,311
16	183,064	224,216	224,216	1,121	361,397	40%	144,559	184,313	361,397
17	188,967	230,942	230,942	1,155	368,625	40%	147,450	187,999	368,625
18	195,056	237,871	237,871	1,189	375,998	60%	225,599	191,759	375,998
19	201,336	245,007	245,007	1,225	383,518	60%	230,111	195,594	383,518
20	207,813	252,357	252,357	1,262	391,188	60%	234,713	199,506	391,188
21	214,493	259,928	259,928	1,300	399,012	60%	239,407	203,496	399,012
22	279,250	267,725	325,594	1,628	406,992	80%	325,594	207,566	406,992
23	284,835	275,757	332,106	1,661	415,132	80%	332,106	211,717	415,132
24	290,532	284,030	338,748	1,694	423,435	80%	338,748	215,952	423,435
25	296,342	292,551	345,523	1,728	431,903	80%	345,523	220,271	431,903
26	302,269	301,327	352,433	1,762	440,541	80%	352,433	224,676	440,541
27	308,314	310,367	359,482	1,797	449,352	80%	359,482	229,170	449,352
28	314,481	319,678	366,671	1,833	458,339	80%	366,671	233,753	458,339
29	320,770	329,268	374,005	1,870	467,506	80%	374,005	238,428	467,506
30	327,186	339,147	381,485	1,907	476,856	80%	381,485	243,197	476,856
31	333,729	349,321	389,115	1,946	486,393	80%	389,115	248,061	486,393
32	340,404	359,801	396,897	1,984	496,121	80%	396,897	253,022	496,121
33	347,212	370,595	404,835	2,024	506,043	80%	404,835	258,082	506,043
34	354,156	381,712	412,931	2,065	516,164	80%	412,931	263,244	516,164
35	361,240	393,164	421,190	2,106	526,488	80%	421,190	268,509	526,488

TOTAL	7,799,351	8,701,437	9,328,006	46,640	13,424,693	6,968,054	6,846,593	13,424,693
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ASC phase-in reflects annual 2% increase in conventional taxes AND Gross Rents

EXHIBIT C

MONTGOMERY GARDENS FAMILY PHASE I URBAN RENEWAL ASSOCIATES, LP (Owner of Site Improvements and Long Term Lessee)

Estimated Total Project Cost Calculation per N.J.S.A. 55:14K-37b

Cost of Land		\$ 500,000
Construction Costs		\$ 28,898,179
Hard Cost Contingency		\$ 1,444,909
Professional Services		\$ 1,535,000
Carrying and Financing Costs		\$ 4,240,293
Soft Cost Contingency		\$ 44,667
Non-Deferred Developer Fee	NJAC 5:80-33.1	\$ 2,760,252
Deferred Developer Fee	NJAC 5:80-33.1	\$ 2,485,332
TOTAL		\$ 41,908,632

EXHIBIT C-1

MONTGOMERY GARDENS FAMILY PHASE I
URBAN RENEWAL ASSOCIATES, LP

Certification of Estimated Construction Costs

On this 8th day of December 2014, the undersigned being the architect for the Project to be developed by Montgomery Gardens Family Phase I Urban Renewal Associates, LP, does hereby certify to the best of my knowledge and belief that Exhibit C accurately reflects the estimated actual construction costs of the Project proposed on Block 13602, Lots 1.04, 1.05, 1.06, 1.07, 1.08 and 1.09, more commonly referred to as 361 Montgomery Street, Jersey City, New Jersey.

By: *Ferdinando Micale*

Name: Ferdinando Micale, FAIA

Title: Principal / Architect

Patricia Soria
Witness

**LONG TERM TAX EXEMPTION APPLICATION PURSUANT TO
NJHMFA Law N.J.S.A. 55:14K-1 et seq.**

**MONTGOMERY GARDNES FAMILY PHASE I URBAN RENEWAL ASSOCIATES, LP
BLOCK 13602 Lot 1.01, 1.02
(To Be Subdivided And Be Known As Lots 1.04, 1.06, .08, 1.09)
561 Montgomey St, etc**

Block	Lot	Existing Assessments	New Assessments	Good Faith Annual Revenue	Assessment Subj. to Exemption
13602	1.04, 1.06, Land	839,400	839,400		
	1.08, 1.09 Bldg	2,772,700	2,772,700	1,747,330	2,772,700
	Total	3,612,100	3,612,100	1,747,330	2,772,700

**Estimated In-Lieu of Full Property Tax Payments An Amount Equal To A
A Percentage Of Taxes Otherwise Due On The Land And
New Improvement According To The Following Stages:**

Stages	Description	ASC*	Annual Taxes Including Land Tax (Phase-In)
1	From the 1st day of the month following substantial completion until the last day of the 9th year, the ASC shall be at 8% of Annual Revenue	\$ 143,916	0
2	Beginning on the 1st day of the 10th year and the last day of the 13th year of substantial completion, an amount equal to the greater of the ASC at 8% or 20% of the amount of taxes otherwise due on the value of the land and improvements;	\$ 143,916	\$ 53,705
3	Beginning on the 1st day of the 14th year and the last day of the 17th year of substantial completion, an amount equal to the greater		

of the ASC at 8 or 40% of the amount of taxes otherwise
due on the value of the land and improvements;

\$ 143,916 \$ 107,409

4 Beginning on the 1st day of the 18th year and the last day of the
21st year of substantial completion, an amount equal to the greater
of the ASC at 8% or 60% of the amount of taxes otherwise
due on the value of the land and improvements;

\$ 143,916 \$ 161,114

Final Stage Beginning on the 1st day of the 22nd year and the last day of the
35th year of substantial completion, an amount equal to the greater
of the ASC at 8% or 80% of the amount of taxes otherwise
due on the value of the land and improvements.

\$ 143,916 \$ 214,819

Land / Improvement Tax @ 100%

\$ 268,524

Data are based on 2014 Tax Rate and Ratio

12/30/2014 *ASC Calculation is an hybrid of 8% ASC for 116 affordable units and 10% ASC for the 10 market-rate units

DATE: January 6, 2015

TO: Diana Jeffery (for Distribution to City Council)

FROM: Ernest Borja, Tax Collector's Office

SUBJECT: THIRTY-FIVE YEAR TAX ABATEMENT APPLICATION: Montgomery Gardens Family Phase I Urban Renewal Associates, LP – 561 Montgomery Street - Block 13601, Lot 1.01 to be subdivided into Lots 1.04, 1.05, 1.06, 1.07, 1.08, and 1.09. Once subdivided Lots 1.05 and 1.07 will be access roads and not part of the Abated properties.

CC: M. Cosgrove, A. Cameron, E. Toloza, J. Monahan, H. Espinal, B. Platt, G. Corrado, R. Byrne

INTRODUCTION:

The applicant, Montgomery Gardens Family Phase I Urban Renewal Associates, LP, has applied for a Thirty-Five (35) Year tax abatement under N.J.S.A. 55:14K-37b et seq. The Entity will develop one hundred twenty-six (126) mixed income units under a ground lease from the Jersey City Housing Authority, which owns the property. Neither an application fee nor an Affordable Housing Trust Contribution is required.

LOCATION OF THE PROPERTY:

The project will be constructed on the site of the Montgomery Gardens Public Housing Project. Three (3) existing vacant buildings will be demolished. The entire site is approximately two and one half (2½) acres. It is bounded by Montgomery Street to the North, Florence Street to the East, Bright Street to the South and Cornelison Avenue to the West.

The property now known as Block 13601, Lot 1.01 is to be subdivided into Lots 1.04, 1.05, 1.06, 1.07, 1.08, and 1.09. Once subdivided Lots 1.05 and 1.07 will be access roads and not part of the abated properties.

ABATEMENT REQUESTED:

The project qualifies for Tier 5 of the Jersey City Tax Exemption Policy and Procedures. It is eligible for a period coterminous with the HMFA Mortgage at an annual service charge rate between five percent (5%) and eight percent (8%) of gross revenue for the affordable units and a rate of ten percent (10%) for the market rate units. In addition an annual administrative fee a rate of one half of one Percent (0.5%) would be required. The applicant proposes a rate of 8% for the Affordable units and a rate of ten percent (10%) for the market rate units. The applicant proposes no staged adjustments.

PROJECT TO BE CONSTRUCTED:

The project will consist of four (4) buildings ranging three to four (3-4) stories with one hundred sixteen (116) affordable residential units and ten (10) market rate units.

TOTAL PROJECT AND CONSTRUCTION COST:

The estimated total project cost is \$41,908,632. The estimated construction cost certified by Ferdiando Micale, the applicant's architect is \$28,898,179.

CONSTRUCTION SCHEDULE:

The applicant estimates beginning construction on all four buildings in July 2015. Completion is expected within twenty-four (24) months from commencement.

HMFA FINANCING

The applicant is applying for financing from the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") under the Hurricane Sandy Fund for Restoration of Multi-Family Housing ("FRM"). The applicant is seeking a single mortgage loan for all four buildings. In order to qualify to apply for FRM financing, the applicant must present a fully executed financial agreement with the City on or before January 30, 2015. Accordingly, a resolution waiving the twenty (20) day estoppel period will be presented to Council to enable the applicant to meet the FRM application deadline.

ESTIMATED JOBS CREATED:

The applicant estimates that there will be one hundred and eighty (180) jobs during construction. The Applicant projects a total of three (3) full time equivalent post construction management and service jobs. The applicant will execute a Project Employment and Contracting Agreement. A Project Labor Agreement is not required.

CURRENT REAL ESTATE TAXES:

The Assessor states that the properties which are mostly exempt will be required to be removed from the exempt category and charged land tax. Based upon the revenue estimates from the Applicant the Assessor sets the consolidated land assessments at \$839,400 and the assessments of the improvements at \$2,772,700 for the land and property for the one hundred and twenty-six units. At the current tax rate of \$74.34 the land tax would be \$62,401 and the tax on improvements would be \$206,122.52.

The Applicant's estimated annual billing for the ASC for 2016 is \$143,916. This should define the Minimum Annual Service Charge.

REVENUE TO THE CITY:

The applicant proposes to pay 8% of Annual Gross Revenue for the entire term of the abatement for the affordable units and 10% for the market rate units. Based upon the projected gross revenue in year 2016 the annual service charge would be approximately \$143,916 In addition the project will pay one half of one percent (0.5%) of the annual service charge as an administrative fee amounting to the City of \$720.

TIER 5B - FA (Co-TERMINOUS WITH HMFA MORTGAGE)

Rev. 1/7/15

HMFA

N.J.S.A. 55:14K-1 et seq.

(Affordable Housing)

Re: Block 13602, Lot 1.01 (to be known as Lots 1.04,
1.06, 1.08, and 1.09 upon subdivision)
561 Montgomery Street (or as further designated by
the Tax Assessor), Jersey City, NJ

PREAMBLE

THIS FINANCIAL AGREEMENT, [Agreement] made this ____ day of _____, 2015, by and between **MONTGOMERY GARDENS FAMILY PHASE I URBAN RENEWAL ASSOCIATES, LP**, is a qualified housing sponsor under the New Jersey Mortgage Housing Finance Agency N.J.S.A. 55:14K-1 et seq., having its principal office 3 East Stow Road, Marlton, New Jersey 08503, and the **CITY OF JERSEY CITY**, a Municipal Corporation in the County of Hudson and the State of New Jersey, [City], having its principal office at 280 Grove Street, Jersey City, New Jersey 07302.

RECITALS

WITNESSETH:

WHEREAS, the Entity is the Lessee under a ground lease, for a minimum term equal to the term of the within tax abatement, of certain property designated as Block 13602, Lot 1.01 (to be known as Lots 1.04, 1.06, 1.08, and 1.09 upon subdivision), more commonly known by the street address of 561 Montgomery Street (or as further designated by the Tax Assessor), Jersey City, NJ, the lots bounded by Florence Street to the East, Montgomery Street to the North, Cornelison Avenue to the West and Bright Street to the South, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

WHEREAS, the anticipated subdivision of Block 13602, Lot 1.01 will include Lots 1.05 and 1.07, which are roads that service the Project currently owned by the Jersey City Housing Authority [JCHA]. However, Lots 1.05 and 1.07 are not part of this abatement and the Entity is not entitled to take a Land Tax credit for them; and

WHEREAS, the Owner of the Property is the Jersey City Housing Authority ("JCHA"), which will continue to own the land subject to the ground lease; and

WHEREAS the general partner of the Entity is Michaels, LLC, an affiliate of Michaels Development Company who was procured by the JCHA to serve as the master developer in connection with this Property and the implementation of the Montgomery Gardens/McGinley Square CHOICE Neighborhood Plan; and

WHEREAS, the Project is part of a comprehensive plan to redevelop and restore public housing in Jersey City for which the Entity is seeking funding from the Hurricane Sandy Fund for the Restoration of Multi-Family Housing ("FRM") from the New Jersey Housing and Mortgage Finance Agency; and

WHEREAS, Montgomery Gardens Family Phase I Urban Renewal Associates, LP, proposes to construct a housing development consisting of four (4) buildings to be regulated and financed pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law, N.J.S.A. 55:14K-1, et seq; and

WHEREAS, the construction of all four (4) buildings is subject to a single HMFA funded mortgage loan; and

WHEREAS, the Entity plans to construct certain improvements on the Property that will be carried out in phases, the first phase which is the subject of this application will construct four (4) buildings ranging in height from three to four (3-4) stories on the footprints of existing Buildings 3, 5 and 6 (as defined in the application), which are currently vacant, and which will be demolished; and

WHEREAS, the four (4) new buildings will include a total of one hundred twenty six (126) units of rental housing, of which one hundred sixteen (116) will be affordable units. Of the 116 affordable units, 58 units will be reserved for households whose income does not exceed 50% of the Hudson County Median Income level adjusted for family size; 48 units will be reserved for households whose income does not exceed 60% of the Hudson County Median Income legal adjusted for family size; and 10 units will be reserved for households whose income does not exceed 80% of the Hudson County Median Income legal adjusted for family size; and

WHEREAS, ten (10) additional units will be market rate residential housing, bringing the total number of units in the four (4) buildings to 126; and

WHEREAS, seven (7) of the 116 affordable units will be reserved for households who have experienced a period of homelessness as defined by the FRM program criteria; and

WHEREAS, the Project also contains 2,400 square feet of community space that will be located in Building C (as identified in the application) to front on Montgomery Street, with a storefront-like design, and which will include a warming kitchen, a computer learning center, a fitness center, and maintenance offices; and

WHEREAS, the Project also includes a large on-site surface parking lot which sits below grade at Montgomery Street and borders on Cornelison Avenue; and

WHEREAS, the Project is expected to generate one hundred eighty (180) construction jobs and two (2) full-time management and service positions and two (2) part-time management and service positions after completion; and

WHEREAS, on _____ 20__, the Entity's Application for a tax exemption for the Project was approved by the City by the adoption of Ordinance ____; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, it is mutually covenanted and agreed as follows:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 Governing Law

This Agreement shall be governed by the provisions of the New Jersey Housing and Mortgage Finance Agency Law, N.J.S.A. 55:14K-1 et seq., Executive Order of E.O. 02-003, Executive Order 13-004, and Ordinance ____, which authorized the execution of this Agreement. It being expressly understood and agreed that the City expressly relies upon the facts, data, and representations contained in the Application, attached hereto as Exhibit 3, in granting this tax exemption.

Section 1.2 General Definitions

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement, the following terms shall have the following meanings:

i. Agency- The New Jersey Housing and Mortgage Finance Agency.

ii. Annual Gross Revenue- The total gross income, including any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, laundry, or other services, including any Section 8 certificate revenue derived from the Project, including all rent and other income, with an allowable vacancy rate of up to 5%. It also includes the cost of insurance, gas, electricity, water and sewer charges, other utilities, garbage removal and insurance charges even if paid for directly by the Tenant, if such expense is ordinarily paid for by the Landlord.

iii. Auditor's Report - A complete financial statement outlining the financial status of the Project (for a period of time as indicated by context), which shall also include a certification of Total Project Cost and clear computation of Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholder's equity, statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items reasonably required by the City or its auditors. The Auditor's Report shall be certified as to its conformance with such principles by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

iv. Certificate of Occupancy - Document, whether temporary or permanent, issued by the City authorizing occupancy of a building, in whole or in part, pursuant to N.J.S.A. 52:27D-133.

v. Default - Shall be a breach of or the failure of the Entity to perform any obligation imposed upon the Entity by the terms of this Agreement, or under the Law, beyond any applicable grace or cure periods.

vi. Entity - The term Entity within this Agreement shall mean

Montgomery Gardens Family Phase 1 Urban Renewal Associates, LP, which Entity is formed and qualified pursuant to Law. It shall also include any subsequent purchasers or successors in interest of the Project, provided they are formed and operate under by Law and the transfer has been duly approved by the City.

vii. Improvements or Project - Any building, structure or fixture permanently affixed to the land and to be constructed and tax exempted under this Agreement.

viii. In Rem Tax Foreclosure or Tax Foreclosure - A summary proceeding by which the City may enforce a lien for taxes due and owing by tax sale, under N.J.S.A. 54:5-1 to 54:5-129 et seq.

ix. Land Taxes - If applicable, the amount of taxes assessed on the value of land, on which the project is located and taxes on any pre-existing improvements. If Land Taxes are not exempt; however, Land Taxes are applied as a credit against the Annual Service Charge.

x. Land Tax Payments - If the law requires, payments made on the quarterly due dates, including approved grace periods if any, for Land Taxes as determined by the Tax Assessor and the Tax Collector.

xi. Law - Law shall refer to the New Jersey Housing and Mortgage Finance Agency Law, N.J.S.A. 55:14K-1 et seq.; Executive Order 02-003, relating to long term tax exemption, as it may be amended and supplemented; Ordinance which authorized the execution of this Agreement; and Ordinance 07-123, as may be amended or supplemented from time to time, which requires the execution of a Project Labor Agreement, and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and/or regulations.

xii. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the amount of the total taxes that would have been levied against all real property in the area covered by the Project in the last full tax year preceding the recording of the HMFA mortgage, which amount the parties agree is approximately \$62,401. The Minimum Annual Service Charge will be due following Substantial Completion of the Project.

xiii. Pronouns - He or it shall mean the masculine, feminine or neuter gender, the singular, as well as the plural, as context requires.

xiv. Substantial Completion - The determination by the City that the Project, in whole or in part, is ready for the use intended, which ordinarily shall mean the date on which the Project receives, or is eligible to receive any Certificate of Occupancy for any portion of the Project.

xv. Termination - Any act or omission which by operation of the terms of this Financial Agreement shall cause the Entity to relinquish its tax exemption.

ARTICLE II - APPROVAL

Section 2.1 Approval of Tax Exemption

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 13602, Lot 1.01 (to be known as Lots 1.04, 1.06, 1.08, and 1.09 upon subdivision), more commonly known by the street address of 561 Montgomery Street (or as further designated by the Tax Assessor), Jersey City, NJ, and described by metes and bounds in Exhibit 1 attached hereto.

Section 2.2 Approval of Entity

Approval is granted to the Entity whose Certificate of Formation is attached hereto as Exhibit 4. Entity represents that its Certificate contains all the requisite provisions of Law; has been reviewed and approved by the Commissioner of the Department of Community Affairs; and has been filed with, as appropriate, the Secretary of State or Office of the Hudson County Clerk.

Section 2.3 Improvements to be Constructed

Entity represents that it will demolish three (3) buildings on the Property, and construct certain improvements including four (4) new buildings to range in height from three to four (3-4) stories, to create a total of one hundred twenty six (126) units of rental housing, 58 units will be reserved for households whose income does not exceed 50% of the Hudson County Median Income level adjusted for family size; 48 units will be

reserved for households whose income does not exceed 60% of the Hudson County Median Income legal adjusted for family size; and 10 units will be reserved for households whose income does not exceed 80% of the Hudson County Median Income legal adjusted for family size; and finally, 7 units will be reserved for households who have experienced a period of homelessness as defined by the FRM program criteria, and approximately 2,400 square feet of community space to be located in Building C, all of which is more specifically described in the Application attached hereto as Exhibit 3. The Project also includes a large on-site surface parking lot which sits below grade at Montgomery Street and borders on Cornelison Avenue.

Section 2.4 Construction Schedule

The Entity agrees to diligently undertake to commence construction and complete the Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5.

Section 2.5 Ownership, Management and Control

The Entity represents that it is the lessee of the property upon which the Project is to be constructed. Upon construction, the Entity represents that the Improvements will be managed and controlled as follows:

1. The Entity shall manage the improvements with regard to the residential dwelling units and retail space.
2. The Entity shall contract with Interstate Realty Management Company working in affiliation with Better Tomorrows, to manage the Property and provide residents with access to social services.

Section 2.6 Financial Plan

The Entity represents that the Improvements shall be financed in accordance with the Financial Plan attached hereto as Exhibit 6. The Plan sets forth estimated Total Project Cost, the amortization rate on the Total Project Cost, the source of funds, the interest rates to be paid on construction financing, the source and amount of paid-in capital, and the terms of any mortgage amortization.

Section 2.7 Statement of Rental Schedules and Lease Terms

The Entity represents that its good faith projections of the initial rental schedules

and lease terms are set forth in Exhibit 7, attached hereto.

ARTICLE III - DURATION OF AGREEMENT

Section 3.1 Term

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of: thirty-seven (37) years from the date of the adoption of Ordinance _____ which approved this exemption or thirty-five (35) years from the date of the recording of the HMFA mortgage as funded and approved by the Agency, to run coterminous with the term of the HMFA mortgage. The tax exemption shall only be effective only while the Project is leased by an entity formed and operating as a housing sponsor under the Law and subject to an HMFA mortgage. Thereafter, the tax exemption shall expire and the land and improvements thereon shall be assessed and taxed according to the general law applicable to other non-exempt property in the City.

ARTICLE IV - ANNUAL SERVICE CHARGE

Section 4.1 Annual Service Charge

In consideration of the tax exemption, the Entity shall make payment to the City of an amount equal to the greater of: the Minimum Annual Service Charge or 8% of the Annual Gross Revenue of the affordable residential units for the Project's term, which amount is estimated to be \$123,270; and 10% of the Annual Gross Revenue of the market rate residential units for the entire 35 year term, which amount is estimated to be \$20,646, for an estimated total Annual Service Charge of \$143,916. The Annual Service Charge shall be billed initially based upon the Entity's estimates of Annual Gross Revenue as set forth in its Financial Plan, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement.

A Minimum Annual Service Charge shall be due beginning on the date this Agreement is executed. The Annual Service Charge or Minimum Annual Service Charge, as the case may be, shall be due following Substantial Completion of the Project. In the event the Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the amount unpaid shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

Section 4.2 Administrative Fee

The Entity shall also pay an annual administrative fee to the City in addition to the Minimum or Annual Service Charge. This administrative fee shall equal to half of one (0.5%) percent of the Annual Service Charge and shall be payable and due on or before December 31st of each year and collected in the same manner as the Annual Service Charge.

Section 4.3 Land Tax Credit

If the Law requires the Entity to pay Land Taxes in addition to the service charges, then the Entity will be entitled to a land tax credit against the service charges. In order to be entitled to the credit, however, the Entity is obligated to make timely Land Tax Payments in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The Entity shall be entitled to credit for the amount, without interest, of the Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. However, the Entity shall not be entitled to any Land Tax credit for any and all fees, taxes, or surcharge paid to the City or pursuant to a Master Lease for any and all roads that service the Project. In any year that the Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render the Entity ineligible for any Land Tax Payment credits against the Annual Service Charge for that year. No credit will be applied against the Annual Service Charge for partial payments of Land Taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. and/or declare a Default and terminate this Agreement.

Section 4.4 Quarterly Installments

The Entity expressly agrees that the Annual Service Charge shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the Entity fails to pay the Annual Service Charge, the amount unpaid shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid.

Section 4.5 Material Conditions

It is expressly agreed and understood that the timely payments of Land Taxes, Minimum Annual Service Charges, Annual Service Charges, including adjustments thereto, Administrative Fees, and any interest thereon, are Material Conditions of this Agreement.

ARTICLE V - PROJECT EMPLOYMENT & CONTRACTING AGREEMENT

Section 5.1 Project Employment Agreement

In order to provide City residents and businesses with certain employment and other economic related opportunities, the Entity is subject to the terms and conditions of the Project Employment & Contracting Agreement, attached hereto as Exhibit 8.

ARTICLE VI - CERTIFICATE OF OCCUPANCY

Section 6.1 Certificate of Occupancy

It is understood and agreed that it shall be the obligation of the Entity to obtain all Certificates of Occupancy in a timely manner. The failure to secure the Certificates of Occupancy shall subject the property to full taxation.

Section 6.2 Filing of Certificate of Occupancy

It shall be the primary responsibility of the Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy.

Failure of the Entity to file such issued Certificate of Occupancy as required by the preceding paragraph shall not mitigate against any action or non-action, taken by the City including, if appropriate, retroactive billing with interest for any charges determined to be due, in the absence of such filing by the Entity.

Section 6.3 Construction Permits

The estimated cost basis disclosed by the Entity's application and proposed Financial Agreement may, at the option of the City, be used as the basis for the construction cost in the issuance of any construction permit(s) for the Project.

ARTICLE VII - ANNUAL REPORTS

Section 7.1 Accounting System

The Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting

principles.

Section 7.2 Periodic Reports

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the Entity's accounting basis that this Agreement shall continue in effect, the Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to: Rental schedule of the urban renewal Project, and the terms and interest rate on any mortgage(s) associated with the purchase or construction of the Project and such details as may relate to the financial affairs of the Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Report shall clearly identify and calculate the Net Profit for the Entity during the previous year.

B. Total Project Cost Audit: Within ninety (90) days after the Substantial Completion of the Project, the Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, certified as to actual construction costs by an independent and qualified architect, utilizing the form attached hereto as Exhibit 9, and as to all other costs, certified its conformance with generally accepted accounting principles, by a certified public accountant who is licensed to practice that profession in the State of New Jersey.

C. Disclosure Statement: On the anniversary date of the execution of this Agreement, if there has been a change in ownership or interest from the prior year's filing, the Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, a Disclosure Statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the City may request from time to time.

Section 7.3 Mortgage

Within ninety (90) days after the date the Entity closes on its loan with the Agency, the Entity shall file with the City a fully executed copy of the Note and a recorded copy of the HMFA Mortgage.

Section 7.4 Inspection/Audit

The Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Project and, if deemed appropriate or necessary, any other related Entity by representatives duly authorized by the City and the NJ Division of Local Government Services in the Department of Community Affairs. It shall also permit, upon request, examination and audit of its books, contracts, records, documents and papers. Such examination or audit shall be made during the reasonable hours of the business day, in the presence of an officer or agent designated by the Entity.

All costs incurred by the City to conduct the audit, including reasonable attorneys' fees if appropriate, shall be billed to the Entity and paid to the City as part of the Entity's Annual Service Charge. Interest shall accrue at the same rate as for a delinquent service charge.

ARTICLE VIII- LIMITATION OF PROFITS AND RESERVES

Section 8.1 Limitation of Profits and Reserves

During the period of tax exemption as provided herein, the Entity's return on investment shall be limited in accordance with the regulations and conditions imposed by the Agency pursuant to N.J.S.A. 55:14K-7(6) or any other Law applicable.

ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION

Section 9.1 Prior Approval of Sale

Any sale or transfer of the Project, shall be void unless approved in advance by Ordinance of the Municipal Council. It is understood and agreed that the City, on written application by the Entity, will not unreasonably withhold its consent to a sale of the Project and the transfer of this Agreement provided 1) the new Entity does not own any other Project subject to long term tax exemption at the time of transfer; 2) the new Entity is formed and eligible to operate under the Law; 3) the Entity is not then in default of this Agreement or the Law; 4) the Entity's obligations under this Agreement

are fully assumed by the new Entity; 5) the Entity pays in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d); and 6) as to projects that are not Substantially Complete, the Entity is comprised of principals possessing substantially the same or better financial qualifications and credit worthiness as the Entity.

Nothing herein shall prohibit any transfer of the ownership interest in the Entity itself provided that the transfer, if greater than 10%, is disclosed to the City in the annual disclosure statement or in correspondence sent to the City in advance of the filing of the annual disclosure statement.

Section 9.2 Transfer or Lease to Tax Exempt Organization or Public Body.

In the event that the Entity transfers, sells, demises, conveys, or in any manner relinquishes ownership or title, including a lease to the land or improvements, covered by this tax exemption agreement, to a tax exempt non-profit organization or institution, including any public body, during the term of the tax exemption agreement, that would adversely impact the City's anticipated economic interests by reducing in any way taxes or the service charge due the City under this agreement or by law, it is understood and agreed by the Entity that it first obtain the consent of the City to the transfer or lease. It is further understood that it may be grounds for the City to withhold its approval if the City's economic interests are adversely effected thereby.

ARTICLE X - COMPLIANCE

Section 10.1 Operation

During the term of this Agreement, the Project shall be maintained and operated in accordance with the provisions of the Law. Operation of Project under this Agreement shall not only be terminable as provided by N.J.S.A. 55:14K-1, et seq., as currently amended and supplemented, but also by a Default under this Agreement. The Entity's failure to comply with the Law shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate the tax exemption.

Section 10.2 Disclosure of Lobbyist Representative

During the term of this Agreement, the Entity must comply with Executive Order

2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The Entity's failure to comply with the Executive Order or the Ordinance shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate the tax exemption.

ARTICLE XI - DEFAULT

Section 11.1 Default

Default shall be failure of the Entity to conform with the terms of this Agreement or failure of the Entity to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

Section 11.2 Cure Upon Default

Should the Entity be in Default, the City shall send written notice to the Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The Entity shall have sixty (60) days, from receipt of the Default Notice, to cure any Default which shall be the sole and exclusive remedy available to the Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within sixty (60) days using reasonable diligence, the City will extend the time to cure.

Subsequent to such sixty (60) days, or any approved extension, the City shall have the right to terminate this Agreement in accordance with Section 12.1.

Should the Entity be in default failure to pay any charges defined as Material Conditions in Section 4.5, or a sale of the Project occurs without the consent of the City, the Entity shall not be subject to the default procedural remedies as provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII herein.

Section 11.3 Remedies Upon Default

The City shall, among its other remedies, have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. In order to secure the full and timely payment of the Annual Service Charge, the City on its own behalf, or on behalf of the Trustee, reserves the right to prosecute an In Rem Tax Foreclosure action against the Project Area in accordance with Applicable Law, as more

fully set forth in this Financial Agreement.

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided herein, but shall allow the City to proceed immediately to terminate the Agreement as provided herein. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

In the event of a Default on the part of the Entity to pay any charges set forth in Article IV, the City among its other remedies, reserves the right to proceed against the Entity's land and property, in the manner provided by the In Rem Foreclosure Act, and any act supplementary or amendatory thereof. Whenever the word taxes appear, or is applied, directly or impliedly to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the charges were taxes or municipal liens on land.

ARTICLE XII- TERMINATION

Section 12.1 Termination Upon Default of the Entity

In the event the Entity fails to cure or remedy the Default within the time period provided in Section 11.2, the City may terminate this Agreement upon thirty (30) days

written notice to the Entity [Notice of Termination].

Section 12.2 Voluntary Termination by the Entity

The Entity may after the expiration of one year from the Substantial Completion of the Project notify the City that as of a certain date designated in the notice, it relinquishes its status as a tax exempt Project as of the 1st of January of the next ensuing year. The Notice of Termination must be received by the City no later than October 1st of the tax year preceding the calendar year in which the termination is to occur. As of the date so set, the tax exemption, the Annual Service Charges and the profit and dividend restrictions shall terminate.

Section 12.3 Final Accounting

Within ninety (90) days after the date of termination, whether by affirmative action of the Entity or by virtue of the provisions of the Law or pursuant to the terms of this Agreement, the Entity shall provide a final accounting to the City. For purposes of rendering a final accounting the termination of the Agreement shall be deemed to be the end of the fiscal year for the Entity.

Section 12.4 Conventional Taxes

Upon Termination or expiration of this Agreement, the tax exemption for the Project shall expire and the land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the City.

ARTICLE XIII - DISPUTE RESOLUTION

Section 13.1 Arbitration

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the

arbitration shall be borne by the Entity. The parties agree that the Entity may not file an action in Superior Court or with the Arbitration Association unless the Entity has first paid in full all charges defined in Article IV, Section 4.5 as Material Conditions.

ARTICLE XIV - WAIVER

Section 14.1 Waiver

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit any right of recovery of any amount which the City has under law, in equity, or under any provision of this Agreement.

ARTICLE XV - INDEMNIFICATION

Section 15.1 Defined

It is understood and agreed that in the event the City shall be named as party defendant in any action by a 3rd party alleging any breach, default or a violation of any of the provisions of this Agreement and/or the provisions of the Law, the Entity shall indemnify and hold the City harmless against any and all liability, loss, cost, expense (including reasonable attorneys' fees and costs), arising out of this Agreement. The Entity agrees to defend the suit at its own expense. However, the City maintains the right to intervene as a party thereto, to which intervention the Entity consents; the expense thereof to be borne by the City.

ARTICLE XVI- NOTICE

Section 16.1 Certified Mail

Any notice required hereunder to be sent by either party to the other shall be sent by certified or registered mail, return receipt requested.

Section 16.2 Sent by City

When sent by the City to the Entity the notice shall be addressed to:

Montgomery Gardens Family Phase 1 Urban Renewal Associates LP
c/o Michaels Development Corporation
3 East Stow Road, Suite 100
Marlton, NJ 08053
Attn: Joel Silver

and

New Jersey Housing and Mortgage Finance Agency
637 South Clinton Avenue
P.O. Box 18550
Trenton, NJ 08650-2085

unless prior to giving of notice the Entity shall have notified the City in writing otherwise.

In addition, provided the City is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's Mortgagee, the City agrees to provide such Mortgagee with a copy of any notice required to be sent to the Entity.

Section 16.3 Sent by Entity

When sent by the Entity to the City, it shall be addressed to:

City of Jersey City, Office of the City Clerk
City Hall
280 Grove Street
Jersey City, New Jersey 07302,

with copies sent to the Corporation Counsel, the Business Administrator, and the Tax Collector unless prior to the giving of notice, the City shall have notified the Entity otherwise. The notice to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the Property's Block and Lot number).

ARTICLE XVII-SEVERABILITY

Section 17.1 Severability

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties. This shall include, but not be limited to the

authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

ARTICLE XVIII - MISCELLANEOUS

Section 18.1 Construction

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Entity and the City have combined in their review and approval of same.

Section 18.2 Conflicts

The parties agree that in the event of a conflict between the Application and the language contained in the Agreement, the Agreement shall govern and prevail. In the event of conflict between the Agreement and the Law, the Law shall govern and prevail.

Section 18.3 Oral Representations

There have been no oral representations made by either of the parties hereto which are not contained in this Agreement. This Agreement, the Ordinance authorizing the Agreement, and the Application constitute the entire Agreement between the parties and there shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

Section 18.4 Entire Document

This Agreement and all conditions in the Ordinance of the Municipal Council approving this Agreement are incorporated in this Agreement and made a part hereof.

Section 18.5 Good Faith

In their dealings with each other, utmost good faith is required from the Entity and the City.

ARTICLE XIX - EXHIBITS

Section 19 Exhibits

The following Exhibits are attached hereto and incorporated herein as if set forth at length herein:

1. Metes and Bounds description of the Project;
2. Ordinance of the City authorizing the execution of this Agreement;
3. The Application with Exhibits;
4. Certificate of the Entity;
5. Estimated Construction Schedule;
6. The Financial Plan for the undertaking of the Project;
7. Initial Rental Schedules and Lease Terms;
8. Project Employment & Contracting Agreement & Project Labor Agreement;
9. Architect's Certification of Actual Construction Costs;
10. Written approval of HMFA mortgage loan, including the amount and term thereof;
11. Entity's Lease.

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

ATTEST:

**MONTGOMERY GARDENS FAMILY PHASE I
URBAN RENEWAL ASSOCIATES, LP**

SECRETARY

**JOEL SILVER
MEMBER MANAGER**

ATTEST:

CITY OF JERSEY CITY

**ROBERT BYRNE
CITY CLERK**

**ROBERT J. KAKOLESKI
BUSINESS ADMINISTRATOR**

PROJECT EMPLOYMENT & CONTRACTING AGREEMENT

This Project Employment & Contracting Agreement is made as of the __ day of __, 2015, between the **CITY OF JERSEY CITY** [City] having its principal office at 280 Grove Street, Jersey City, NJ 07302, and **MONTGOMERY GARDENS FAMILY PHASE I URBAN RENEWAL ASSOCIATES, LP** [Recipient], having its principal office at 3 East Stow Road, Marlton, New Jersey 08503.

I. Definitions:

The following words and terms, when used in this agreement, shall have the following meanings unless the context clearly indicates otherwise.

1. "City" means the Business Administrator of the City of Jersey City, or his designee, including any person or entity which enters into an agreement with the City to implement, in whole or in part, this agreement.
2. "Contractor" means any party performing or offering to perform a prime contract on behalf of the Recipient.
3. Construction Contract means any agreement for the erection, repair, alteration or demolition of any building, structure, bridge, roadway or other improvement on a Project Site.
4. "DEO" means the Division of Economic Opportunity under the Department of Administration, located at 280 Grove Street. DEO is in charge of Project Employment & Contracting coordination and monitoring on projects receiving abatements.
5. "Economic Incentive" means a tax abatement or tax exemption for a property or project which requires approval of the Municipal Council.
6. "Employment" includes positions created as a result of internal promotions, terminations, or expansions within the Recipient's work force which are to be filled by new employees. However, positions filled through promotion from within the Recipient's existing work force are not covered positions under this agreement.
7. Jersey City Employment and Training Corporation or "JCEPT" means the non-profit quasi public Entity with whom the City has an operating agreement to undertake certain employment services.
8. "Local Business" means a bona fide business located in Jersey City.
9. "Minority" means a person who is defined as such under federal or state law.

10. "Minority or Woman Owned Local Business" means a bona fide business located in Jersey City which is fifty-one (51%) percent or more owned and controlled by either a Minority or woman.
11. "Non-Traditional Jobs" means jobs which are held by less than twenty (20%) percent women, as reported by the New Jersey Department of Labor and Workforce Development, Division of Labor Market, and Demographic Research for Jersey City, which report shall be on file with the City Clerk.
12. "Permanent Jobs" mean newly created long term salaried positions, whether permanent, temporary, part time or seasonal.
13. "Project or Project Site" means the specific work location or locations specified in the contract.
14. The "Project Employment & Contracting Coordinator" or "Coordinator" is the employee in the Department of Administration presently, the Executive Director of the Jersey City Employment & Training Program, Inc., who is in charge of coordinating Project Employment & Contracting projects. Contractors and developers engaged in projects covered by Project Employment & Contracting Agreements will direct inquiries to the Coordinator. The Coordinator may refer a developer to the JCEPT or its one-stop career center so long as the City and JCEPT agreement is in full force and effect.
15. The "Project Employment & Contracting Monitor" or "Monitor" is the employee in the Department of Administration who is in charge of monitoring the site, collecting the reports and documentation, and other day-to-day Project Employment & Contracting administration as stipulated by this agreement.
16. The "Project Employment & Contracting Officer" or "Officer" is an employee of the Recipient who is designated by the Recipient to make sure the Recipient is in compliance with the Recipient's Project Employment & Contracting agreement.
17. "Recipient" means any individual, partnership, association, organization, corporation or other entity, whether public or private, or for profit or non-profit, or agent thereof, which receives an Economic Incentive and shall include any Contractor, Subcontractor or agent of the Recipient.
18. "The Registry" or "Jersey City Employment Registry" means a data base maintained by the City or its designee, of Jersey City residents seeking employment and Local Businesses, including Minority or Woman Owned Local Businesses, seeking contracts.
19. "Subcontract" means a binding legal relationship involving performance of a contract that is part of a prime contract.
20. "Subcontractor" means a third party that is engaged by the prime Contractor to perform under a subcontract all or part of the work included in an original contract.

21. "Substantial Completion" means the determination by the City that the Project, in whole or in part, is ready for the use intended, which ordinarily shall mean the date on which the Project receives, or is eligible to receive any Certificate of Occupancy for any portion of the Project.

II. Purpose: Construction Jobs, Business Contracting, Permanent Jobs

The City wishes to assure continuing employment opportunities for City residents, particularly residents who are Minorities, and business opportunities for Local Businesses, especially Minority and Women Owned Local Businesses, with employers located in or relocating to the City who are the Recipients of Economic Incentives. The City has determined to accomplish that goal by requiring the Recipient of an Economic Incentive to act in Good Faith, as defined herein, and discharge its obligations under this Agreement. To the extent mandated by State and Federal law and so long as the Entity discharges its Good Faith obligations under this agreement, the City acknowledges that the Recipient and its contractors are free to hire whomever they choose.

Because this project is not subject to the terms of a Project Labor Agreement during construction, this agreement shall apply to all Construction Jobs, Business Contracts and non-construction Permanent Jobs. Recipients are also required to notify any commercial tenants of employment services available from the City.

III. Recipient Designee:

The Recipient shall designate a principal officer of its firm to be responsible for administering the agreement detailed herein and to report to and confer with the City in order to discharge its Good Faith obligations as defined in this agreement. This officer should be designated as the Project Employment & Contracting Officer.

The Recipient shall send a letter designating its "Project Employment & Contracting Compliance Officer" to the Project Employment & Contracting Coordinator prior to any preconstruction meetings. An example of this letter can be found in Appendix 1. This Officer should also be present for all preconstruction meetings.

The Recipient should send a letter regarding the "Project Employment & Contracting Compliance Officer" to the employees of the Recipient's company. An example of this letter can be found in Appendix 2.

IV. Term:

This agreement shall be in effect for a period co-terminus with the effective period of the tax exemption [the Economic Incentive]. Thus, it will commence on the date the City Council adopted Ordinance _____, approving the tax exemption and terminate the earlier of 40 years from the date of the adoption of that Ordinance or 35 years from the date of Substantial Completion of the Project.

V. **Good Faith Goals:**

In the event the Recipient is able to demonstrate that its work force already meets the goals set forth below or is able to meet such goals during the term of this agreement, the Recipient shall only be required to submit the periodic certified manning and certified payroll reports described below to confirm ongoing compliance. All other Recipients must comply with the following Good Faith goals.

1. **Employment (Construction and Permanent Jobs):** The Recipient shall make a Good Faith effort to achieve the goal of a work force representing fifty-one (51%) percent City residents, fifty-one (51%) percent of whom are residents who are Minorities and, in Non-Traditional Jobs, six point nine (6.9%) percent of whom are residents who are women, it being understood that one employee may satisfy more than one category.
2. **Business Contracting:** The Recipient shall make a Good Faith effort to achieve the goal of awarding twenty (20%) percent of the dollar amount of its contracts to Local Businesses, fifty-one (51%) percent of which shall be Minority or Women Owned Local Businesses. If fifty-one (51%) percent of Minority or Women Owned Local Businesses cannot be obtained, that percentage of contracts must still be applied to local vendors.

VI. **Good Faith Defined. Construction Jobs:**

1. **Construction Jobs:** Good Faith shall mean compliance with all of the following conditions:

A. Initial Manning Report:

- i) Prior to the commencement of their work on the Project, each Contractor /Subcontractor shall prepare an Initial Manning Report.
- ii) The Initial Manning Report should contain an estimate of the total hours in each construction trade or craft and the number of hours to be worked by City residents, including a list of the number of minority residents and women residents that will work in each trade or craft, including the work hours to be performed by such employees of any and all Contractors and Subcontractors. Attached hereto as Appendix B is the Recipient's Initial Manning Report.
- iii) The Initial Manning Report shall be filed with the Project Employment and Contracting Monitor, who must accept said Report prior to the Recipient entering into any construction contract. An example of this acceptance letter is given in Appendix C.

B. Developer's Contracting Obligations

- i) Once the developer submits the project's initial manning report, he/she must forward a letter with requests for quotation or bid to Mayor Steven M. Fulop's Business Cooperative Program for local and minority vendors for any

construction or building operating goods, services and sub-contracting opportunities. An example of this letter is given in Appendix D.

- ii) The developer shall make a good faith effort to contact those businesses and individuals who submit bids. This effort must be documented by letter, which will be sent to Mayor Steven M. Fulop's Business Cooperative Program at DEO under the Department of Administration. An example of this letter can be found in Appendix D2.

C. Contractor's/Subcontractor's Compliance Statement

Prior to commencement of their work on the Project, each Contractor or Subcontractor must agree in writing to comply with this agreement and the employment goals elaborated herein. An example of this Compliance Statement can be found in Appendix E.

D. Union Statement of Using Its Best Efforts

- i) Prior to commencement of their work on the Project, the contractor/subcontractor must submit a statement expressing its adherence to the Project Employment & Contracting Agreement to each union with which he/she has a collective bargaining agreement covering workers to be employed on the project.
- ii) The Compliance Statement shall include a union statement for the particular union to sign, which claims the union will use its best efforts to comply with the employment goals articulated in the Project Employment & Contracting agreement. This compliance statement is detailed in Appendix F. A copy of the signed compliance statement must be sent to the Project Employment & Contracting Monitor in DEO under the Department of Administration before work starts in order for a developer to be in compliance.
- iii) The Recipient will require the Contractor or Subcontractor to promptly notify the City of any refusal or failure of a union to sign the statement. If a particular union refuses to sign a statement, the Recipient will document its efforts to obtain such statement and the reasons given by the union for not signing such statement, and submit such documentation to the Project Employment & Contracting Monitor in DEO under the Department of Administration.

E. Sub-Contractors

The developer shall require that each prime contractor be responsible for the compliance of his/her subcontractors with the aforementioned Project Employment & Contracting requirements during the performance of the contract. Whenever the contractor sub-contracts a portion of the work on the project, the contractor shall bind the subcontractor to the obligations contained in these supplemental conditions to the full extent as if he/she were the contractor.

F. Union Apprentices

The contractor is responsible for assuring that resident and minority apprentices account for at least fifty (50%) percent of the total hours worked by union apprentices on the job in each trade listed in which apprentices are employed, according to the apprentice-to-journey-worker ratio contained in the collective bargaining agreement between the various unions, and shall hold each of his/her subcontractors to this requirement. The Recipient will require the contractor or subcontractor to promptly notify the City of any refusal of a union to utilize resident and minority apprentices.

G. Monthly Manning Report

- i) The Recipient will cause the Contractor to complete and submit Monthly Project Manning Reports to the Project Employment & Contracting Monitor in DEO under the Department of Administration by the seventh day of the month following the month during which the work is performed, for the duration of the contract.
- ii) The report will accurately reflect the total hours in each construction trade or craft and the number of hours worked by City residents, including a list of the number of minority resident and women resident workers in each trade or craft, and will list separately the work hours performed by such employees of the Contractor and each of its Subcontractors during the previous month. The Monthly Manning Report shall be in the form attached hereto as Appendix G.
- iii) The Recipient is responsible for maintaining or causing the Contractor to maintain records supporting the reported work hours of its Contractors or Subcontractors.

H. Monthly Certified Payroll Report

- i) The Recipient will cause the Contractor to furnish the Project Employment & Contracting Monitor with copies of its weekly Certified Payroll reports. The reports will specify the residence, gender and ethnic/racial origin of each worker, work hours and rate of pay and benefits provided. The Certified Payroll report shall be in the form attached hereto as Appendix H.
- ii) Payroll reports must be submitted on a monthly basis with the Monthly Manning Report or the Recipient is no longer in compliance.

I. Equal Employment Opportunity Reports

Prior to commencement of work on the Project, the Recipient will request copies of the most recent Local Union Report (EEO-3) and Apprenticeship Information Report (EEO-2) which are required to be filed with the US Commission of Equal Employment Opportunity Commission by the collective bargaining unit. These reports will be forwarded to the Project Employment & Contracting Monitor within one month of the signing of the Project Employment & Contracting Agreement.

J. Other Reports

In addition to the above reports, the Recipient shall furnish such reports or other documents to the City as the City may request from time to time in order to carry out the purposes of this agreement.

K. Records Access

The Recipient will insure that the City will have reasonable access to all records and files reasonably necessary to confirm the accuracy of the information provided in the reports.

L. Work Site Access For Monitor

- i) The City will physically monitor the work sites subject to this agreement to verify the accuracy of the monthly reports. Each work site will be physically monitored approximately once every two weeks, and more frequently if it is deemed reasonably necessary by the City. The City's findings shall be recorded in a "Site Visit Report." An example of a bi-weekly site visit report can be found in Appendix I.
- ii) The Recipient shall require the Contractor and Sub-contractor to cooperate with the City's site monitoring activities and inform the City as to the dates they are working at the Project site. This includes specifically instructing the on-site construction manager about the monitoring process, and informing him/her that the monitor will contact him/her to set up an initial meeting. In the case of projects with multiple locations, the Recipient shall inform the City of the dates they are working at each site location(s) where they are working, in order to facilitate the monitoring.

VII. Good Faith Defined. Permanent Jobs:

1. **Permanent Jobs:** Good Faith shall mean compliance with all of the following conditions:

A. Pre-hiring Job Awareness: At least eight (8) months prior to the hiring of a Recipient's permanent workforce, the Project Employment & Contracting officer for the Recipient will meet with the Coordinator, including the director of JCETP to discuss how the Recipient plans to hire its permanent workforce. The following issues should be covered in this meeting:

- i) whether subcontractors will be used in the hiring process.
- ii) the specific types of jobs that need to be filled.
- iii) the qualifications needed for these particular jobs.
- iv) possible training programs offered by the permanent employer.
- v) the Recipient's goals and how it plans to meet these goals.
- vi) any other issues which need to be addressed.

- B. Subcontractor Notification -- If the Recipient decides to subcontract any portion or all of its permanent workforce, then the Recipient must receive a signed acknowledgment from the subcontracting party that it will abide by the Project Employment & Contracting Agreement before said subcontractor begins staffing permanent employees. The Recipient must forward a copy of the signed acknowledgment to the Project Employment & Contracting Monitor. An example of this signed acknowledgment can be found in Appendix 3.
- C. Subcontractor Pre-Hiring Job Awareness Meeting -- Each subcontractor hired to staff permanent job positions must appoint a Project Employment & Contracting Officer to meet with the head of the Registry to discuss the same issues presented above in VI 1.A.(i)-(vi) and notify the City.
- D. Subcontractors of Subcontractors--Subcontractors of subcontractors are subject to the same requirements for the initial subcontractors.
- E. Documentation of Hiring Plan--Once the Pre-Hiring Job Awareness Meeting has taken place, the Recipient must put together a document with goals and totals for future permanent employment needs. This plan should summarize all that was discussed in the Pre-Hiring Awareness Meeting, list estimates for manpower needs, set residential and minority employment goals commensurate with the Project Employment & Contracting Agreement, and show how the Recipient plans to meet these goals. An example of this plan is found in Appendix 4.
- F. Pre-Hiring Notification: At least ten (10) working days prior to advertising for any employees, the Recipient or the Recipient's subcontractor shall provide the DEO and the JCEPT with a written notice, which shall state the job title, job description and minimum qualifications, rate of pay, hours of work and the hiring date for each position to be filled, in qualitative and objective terms which will enable the referral of qualified applicants to the Recipient.
- G. Advertisement: At the request of the City, or because the City does not have qualified applicants to refer to the Recipient, the Recipient will place an advertisement for the jobs in a newspaper which is regularly published in Jersey City. The Recipient must furnish the DEO with a copy of this advertisement.
- H. Pre-Hiring Interview: The Recipient shall interview any qualified applicants referred to it pursuant to the agreement. In the event advertisement is required, the Recipient agrees to interview any qualified persons responding to the advertisement.
- I. Monthly Employment Reports: The Recipient will submit written employment reports to the Project Employment & Contracting Monitor in the form to be provided by the City. The report will be submitted on the 1st day of every month. It will describe each job and state whether the job was filled or held by a City resident, minority resident or woman resident and date of hire. The report will explain in writing the reasons why any qualified referred applicant (or in the event advertisement is required, any qualified person responding to the advertisement) was not hired and the reason therefore. The form of this

report shall be in substantially the form found in Appendix 5, subject to such revision as the City deems appropriate and reasonable. Monthly reports may be extended to semi-annually reports once the initial workforce is hired.

- J. Record Access: The Recipient shall provide the City with reasonable access to all files and records including payroll and personnel information reasonably necessary to confirm the accuracy of the information set forth in the semi-annual reports.
- K. Work Place Access: The Recipient shall provide the City with reasonable access to the site to physically monitor the work site to verify the accuracy of the information set forth in the any reports.
- L. Other Reports, Documents: In addition to the above reports, the Recipient shall furnish such reports or other documents that the City may request from time to time in order to implement the purposes of this agreement.
- M. Incorporation of Agreement: The Recipient shall incorporate the provisions of this Agreement in all contracts, agreements and purchase orders for labor with any service, maintenance, security or management agent or Contractor engaged by the Recipient whose personnel will be assigned to the Recipient project.

VIII. **Good Faith Defined. Business Contracts**

- A. Good Faith shall mean compliance with all of the following conditions:
 - i) Solicitation of Businesses:
 - a) One month before the solicitation for any goods or services, the Recipient must forward a letter with a description of the goods or services to the Project Employment and Contracting Coordinator;
 - b) The Recipient shall provide the City with a written Purchasing Report every month. The form of this report shall be in substantially the form found in Appendix 6.
 - c) Pre-Hiring Notification: At least ten (10) working days prior to advertising for any employees, the Recipient or the Recipient's subcontractor shall provide the DEO and the JCEPT with a written notice, which shall state the job title, job description and minimum qualifications, rate of pay, hours of work and the hiring date for each position to be filled, in qualitative and objective terms which will enable the referral of qualified applicants to the Recipient.
 - d) Advertisement: At the request of the City, or because the City does not have qualified applicants to refer to the Recipient, the Recipient will place an advertisement for the jobs in a newspaper which is regularly published in Jersey City. The Recipient must furnish the DEO with a copy of this advertisement.

- e) Pre-Hiring Interview: The Recipient shall interview any qualified applicants referred to it pursuant to the agreement. In the event advertisement is required, the Recipient agrees to interview any qualified persons responding to the advertisement.
- f) Monthly Employment Reports: The Recipient will submit written employment reports to the Project Employment & Contracting Monitor in the form to be provided by the City. The report will be submitted on the 1st day of every month. It will describe each job and state whether the job was filled or held by a City resident, minority resident or woman resident and date of hire. The report will explain in writing the reasons why any qualified referred applicant (or in the event advertisement is required, any qualified person responding to the advertisement) was not hired and the reason therefore. The form of this report shall be in substantially the form found in Appendix 5, subject to such revision as the City deems appropriate and reasonable. Monthly reports may be extended to semi-annually reports once the initial workforce is hired.
- g) Record Access: The Recipient shall provide the City with reasonable access to all files and records including payroll and personnel information reasonably necessary to confirm the accuracy of the information set forth in the semi-annual reports.
- h) Work Place Access: The Recipient shall provide the City with reasonable access to the site to physically monitor the work site to verify the accuracy of the information set forth in the any reports.
- i) Other Reports, Documents: In addition to the above reports, the Recipient shall furnish such reports or other documents that the City may request from time to time in order to implement the purposes of this agreement.
- j) Incorporation of Agreement: The Recipient shall incorporate the provisions of this Agreement in all contracts, agreements and purchase orders for labor with any service, maintenance, security or management agent or Contractor engaged by the Recipient whose personnel will be assigned to the Recipient project.

B. The Recipient pledges not to use local and local minority vendors solely as conduits for vendors that are not local and minority owned. Any discovery by Project Employment and Contracting Monitor of a Recipient, using the masthead of a local or minority owned business as a way to get credit for local or minority employment when it should not, will immediately subject the Recipient to the penalties listed in Section VIII (d) below.

IX. Good Faith Defined. Commercial Tenants at the Project Site

Good Faith shall mean compliance with all of the following conditions:

- A. The Recipient shall send all tenants of commercial space, including retail space, within the Project Site a Tenant Employment Services Guide in the form attached as Appendix 7.
- B. The Recipient shall require tenants of commercial, including any retail space to complete an annual questionnaire concerning the composition of the work force of each tenant. The completed questionnaire be submitted to the Project Employment & Contracting Monitor. The questionnaire shall be in the form attached as Appendix 8.
- C. The Recipient will send the results of its solicitation to the Project Employment & Contracting Monitor no later than December 1st of each year.

X. Notices of Violation:

- 1. Advisory Notice: The City will issue a written Advisory Notice to the Recipient if there is non-compliance with a Good Faith requirement as defined in this agreement. The Advisory Notice shall explain in sufficient detail the basis of the alleged violation. The Recipient shall have 7 days to correct the violation.
- 2. Violation Notice: If the alleged violation set forth in the Advisory Notice has not been corrected to the satisfaction of the City the City shall issue a Violation Notice to the Recipient. The Violation Notice shall explain in sufficient detail the basis of the alleged, continuing violation. The Recipient will have three (3) working days to correct the violation.
- 3. Correcting the Violation: Either or both the Advisory Notice or the Violation Notice may be considered corrected if the Recipient satisfies the requirements of this agreement and so advises the City in writing, subject to confirmation by the City.
- 4. Extension of Time to Correction: Either the Advisory Notice or the Violation Notice may be held in abeyance and the time for correction extended if the Recipient enters into satisfactory written agreement with the City for corrective action which is designed to achieve compliance. If Recipient fails to abide by the terms of such agreement the violation will be considered not corrected.

If the City determines that the Recipient is in violation after the expiration of the cure periods, the Recipient agrees that the City shall be entitled to the liquidated damages provided below.

XI. Liquidated Damages:

- 1. While reserving any other remedies the City may have at law or equity for a material breach of the above terms and conditions, the parties agree that damages for violations of this agreement by the Recipient cannot be calculated within any reasonable degree of mathematical certainty. Therefore, the parties agree that upon the occurrence of a material breach of any of the above terms and conditions and after notice and expiration

of any cure period, the City will be entitled to liquidated damages from the Recipient in the following amounts:

- A. Failure to file Initial Manning Report (Construction Jobs) or Pre-Hiring Notification (Permanent Jobs) or Pre-Contracting Notification (Business Contracts): an amount equal to Five percent (5%) increase in the estimated annual service charge as set forth in the Financial Agreement for each quarter or part thereof that the Recipient is non compliant.
- B. Failure to conduct Pre-hiring Interviews or submit Compliance Statement (Submit description of goods or services, (Business Contracting): an amount equal to Three (3%) percent of the estimated annual service charge as set forth in the Financial Agreement for each quarter or part thereof that the Recipient is non compliant.
- B. Failure to allow record or work place access or submit any other required reports (all categories): an amount equal to Three (3%) percent increase service charge as set forth in the Financial Agreement for each quarter or part thereof that the Recipient is non compliant.
- C. The use of the local or local minority business' masthead for labor or work supplied by a non local or local minority vendor: An amount equal to Ten (10%) service charge as set forth in the Financial Agreement for each quarter or part thereof, the Recipient is non compliant.

XII. Notices

Any notice required hereunder to be sent by either party to the other, shall be sent by certified mail, return receipt requested, addressed as follows:

1. When sent by the City to the Recipient it shall be addressed to:

Montgomery Gardens Family Phase I
Urban Renewal Associates, LP
3 East Stow Road
Marlton, New Jersey 08503
Att:

and

2. When sent by the Recipient to the City, it shall be addressed to:

City of Jersey City
Department of Administration
Division of Economic Opportunity
Project Employment & Contracting Monitor
280 Grove Street
Jersey City, New Jersey 07302
Att: Division Director

and

Director of Jersey City Employment and Training Program, Inc
895 Bergen Avenue—2nd Floor
Jersey City, NJ 07306
Att: Executive Director

with separate copies to the Mayor and the Business Administrator.

XIII. Appendix

These forms are examples only and shall be in substantially the form on file in the Division of Economic Opportunity, subject to modifications from time to time by the City as necessary or appropriate.

1. Letter designating Recipient's Project Employment & Contracting Officer
2. Letter from Recipient to Employees of Recipient's Company
3. Acknowledgment of PECA compliance of Subcontractor
4. Example of Hiring Plan
5. Example of Monthly Employment Report
6. Example of Monthly Purchasing Report
7. Tenant Employment Services Guide
8. Commercial Retail Annual Questionnaire

XIV. Adoption, Approval, Modification:

This agreement shall take effect on the date that the Economic Incentive is approved by the Municipal Council.

XII. Controlling Regulations and Laws:

To the extent required by State and Federal Law and so long as the Entity discharges its Good Faith obligations under this agreement, the City agrees and acknowledges that the Recipient and its contractors are free to hire whomever they choose. If this agreement conflicts with any collective bargaining agreement, the City agrees to defer to such agreements so long as the Recipient provides the City with a copy of the offending provision in the collective bargaining agreement.

In the event there are any conflicts between this Agreement and any Project Labor Agreement, then as it pertains to construction jobs covered by the PLA, the Project Labor Agreement shall govern. Wherever possible, this Agreement shall be interpreted consistently with the Project Labor Agreement.

ATTEST:

CITY OF JERSEY CITY

Robert Byrne
City Clerk

Robert J. Kakoleski
Business Administrator

WITNESS:

MONTGOMERY GARDENS FAMILY PHASE I
URBAN RENEWAL ASSOCIATES, LP

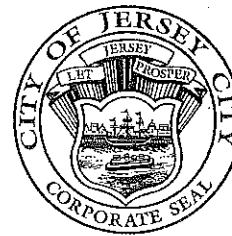
Secretary

President

City Clerk File No. Ord. 15-002

Agenda No. 3.B 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 15-002

TITLE:

AN ORDINANCE HONORING FORMER WARD D COUNCILMAN WILLIAM "BILL" GAUGHAN BY NAMING THE 100 STEPS CONNECTING THE JERSEY CITY HEIGHTS WITH FRANKLIN STREET "BILL GAUGHAN WAY"

COUNCIL offered and moved adoption of the following Ordinance:

WHEREAS, William "Bill" Gaughan was first elected to the Municipal Council in 1993 to represent Ward D; and

WHEREAS, Bill Gaughan was re-elected to the Municipal Council four times and had faithfully served his Ward and this City as the longest serving Council member in the City's history; and

WHEREAS, during his twenty-year tenure on the Council, Bill Gaughan spearheaded numerous initiatives which improved both the Ward and the City such as bringing Hudson-Bergen Light Rail service to Congress Street, creating more affordable-housing in the Heights, successfully advocating for the renovation of Washington Park and for the completion of the 100 Steps project connecting the Heights with Franklin Street, Paterson Plank Road, Hoboken and the Second Street Light Rail Station; and

WHEREAS, when Bill Gaughan was first elected to the Municipal Council in 1993 he sought to have the original 100 steps, a crumbling staircase leading from Mountain Road to Franklin Street, torn down and replaced with a newer, safer staircase; and

WHEREAS, despite the passage of time, financial setbacks and through four administrations, Bill Gaughan never lost his focus on reconstructing this vital link between the Heights and Hoboken; and

WHEREAS, on November 6, 2013 Jersey City opened the new 100 Steps, a goal made possible thanks to the vision, dedication and fortitude of Bill Gaughan.

NOW, THEREFORE BE IT ORDAINED, that the Municipal Council of the City of Jersey City, in honor of his dedication to this project and for his twenty years of outstanding service to Jersey City, hereby names the 100 Steps connecting the Jersey City Heights with Franklin Street, Paterson Plank Road, Hoboken and the Second Street Light Rail Station "BILL GAUGHAN WAY."

I. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

II. This Ordinance shall take effect in the manner as provided by law.

JJH 1/6/15

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required ☐

Not Required ☐